

Assembly Bill No. 1535

Passed the Assembly September 10, 2009

Chief Clerk of the Assembly

Passed the Senate September 9, 2009

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 101, 149, 205, 2220.5, 2530.2, 2531, 2531.2, 2534, 2534.2, 3300, 3306, 3307, 3320.1, 3326, 3327, 3327.5, 3328, 3329, 3350, 3352, 3353, 3354, 3356, 3357, 3358, 3360, 3362, 3364, 3400, 3401, 3402, 3403, 3404, 3421, 3422, 3423, 3424, 3426, 3430, 3451, 3452, 3454, 3455, and 3456 of, to add Sections 2531.06 and 3322 to, to add Article 9 (commencing with Section 2539.1) to Chapter 5.3 of Division 2 of, to repeal Sections 3321, 3325, and 3330 of, and to repeal and add Sections 2531.05 and 3320 of, the Business and Professions Code, relating to hearing aids.

LEGISLATIVE COUNSEL'S DIGEST

AB 1535, Jones. Audiologists: hearing aids.

Existing law, the Speech-Language Pathologists and Audiologists Licensure Act, provides for the licensure and regulation of audiologists by the Speech-Language Pathology and Audiology Board, defines the practice of audiology, and makes a violation of that act a crime. Under existing law, the board is comprised of 3 licensed speech-language pathologists, 3 licensed audiologists, and 3 public members.

Existing law, the Hearing Aid Dispensers Licensing Law, provides for the licensure and regulation of hearing aid dispensers, who fit or sell hearing aids, by the Hearing Aid Dispensers Bureau. Existing law exempts audiologists and individuals supervised by audiologists from the hearing aid dispenser licensure requirement if those persons do not directly or indirectly engage in the sale or offering for sale of hearing aids.

This bill would define the practice of audiology to include the selling of hearing aids and would also exempt audiologists from the hearing aid dispenser licensure requirements. However, the bill would prohibit a licensed audiologist from selling hearing aids unless he or she has completed an application for a dispensing audiologist certificate, paid all applicable fees, and passed a specified examination approved by the board. The bill would also make various provisions relating to the sale of hearing aids applicable to audiologists, such as, but not limited to, requiring

hearing aids sold by catalog or direct mail to meet certain requirements, requiring a specified written receipt to be provided to a purchaser upon the sale of a hearing aid, and requiring specified records pertaining to the sale of a hearing aid to be maintained for 7 years.

By making licensed audiologists subject to specified requirements relating to the sale of hearing aids, the violation of which would be a crime, the bill would impose a state-mandated local program.

The bill would also abolish the Hearing Aid Dispensers Bureau and would transfer the bureau's duties, powers, purposes, responsibilities, and jurisdiction over the licensing and regulation of hearing aid dispensers to the Speech-Language Pathology and Audiology Board, which would be renamed the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board. The bill would also provide for the transfer of funds from the Hearing Aid Dispensers Fund to the Hearing Aid Dispensers Account in the Speech-Language Pathology and Audiology Fund. Under the bill, the board would be comprised of 2 licensed speech-language pathologists, 2 licensed audiologists, one of whom shall be an audiologist that dispenses hearing aids, 2 licensed hearing aid dispensers, and 3 public members. The bill would create the Hearing Aid Dispensing Committee, comprised of specified board members, to review and research the practice of fitting or selling hearing aids and to advise the board about this practice. The bill would require the board, by January 1, 2011, to review specified license fees to assess whether there is adequate revenue to support the board's functions. The bill would make other conforming changes.

The bill would incorporate additional changes to Sections 101 and 149 of the Business and Professions Code, proposed by AB 48 and SB 819, to be operative only if this bill and one or both of the other bills are chaptered and become effective on or before January 1, 2010, and this bill is chaptered last.

The bill would incorporate additional changes to Sections 2530.2, 3357, 3362, and 3456 of the Business and Professions Code proposed by both this bill and SB 821, to be operative only if SB 821 and this bill are both chaptered and become effective on or before January 1, 2010, and this bill is chaptered last.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 101 of the Business and Professions Code, as amended by Section 1 of Chapter 18 of the Fourth Extraordinary Session of the Statutes of 2009, is amended to read:

101. The department is comprised of:

- (a) The Dental Board of California.
- (b) The Medical Board of California.
- (c) The State Board of Optometry.
- (d) The California State Board of Pharmacy.
- (e) The Veterinary Medical Board.
- (f) The California Board of Accountancy.
- (g) The California Architects Board.
- (h) The Bureau of Barbering and Cosmetology.
- (i) The Board for Professional Engineers and Land Surveyors.
- (j) The Contractors' State License Board.
- (k) The Bureau for Private Postsecondary and Vocational Education.
- (l) The Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation.
- (m) The Board of Registered Nursing.
- (n) The Board of Behavioral Sciences.
- (o) The State Athletic Commission.
- (p) The Cemetery and Funeral Bureau.
- (q) The State Board of Guide Dogs for the Blind.
- (r) The Bureau of Security and Investigative Services.
- (s) The Court Reporters Board of California.
- (t) The Board of Vocational Nursing and Psychiatric Technicians.
- (u) The Landscape Architects Technical Committee.
- (v) The Division of Investigation.
- (w) The Bureau of Automotive Repair.
- (x) The Respiratory Care Board of California.

- (y) The Acupuncture Board.
- (z) The Board of Psychology.
- (aa) The California Board of Podiatric Medicine.
- (ab) The Physical Therapy Board of California.
- (ac) The Arbitration Review Program.
- (ad) The Physician Assistant Committee.
- (ae) The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.
- (af) The California Board of Occupational Therapy.
- (ag) The Osteopathic Medical Board of California.
- (ah) The Naturopathic Medicine Committee.
- (ai) The Dental Hygiene Committee of California.
- (aj) Any other boards, offices, or officers subject to its jurisdiction by law.

SEC. 1.1. Section 101 of the Business and Professions Code, as amended by Section 1 of Chapter 18 of the Fourth Extraordinary Session of the Statutes of 2009, is amended to read:

101. The department is comprised of:

- (a) The Dental Board of California.
- (b) The Medical Board of California.
- (c) The State Board of Optometry.
- (d) The California State Board of Pharmacy.
- (e) The Veterinary Medical Board.
- (f) The California Board of Accountancy.
- (g) The California Architects Board.
- (h) The Bureau of Barbering and Cosmetology.
- (i) The Board for Professional Engineers and Land Surveyors.
- (j) The Contractors' State License Board.
- (k) The Bureau for Private Postsecondary Education.
- (l) The Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation.
- (m) The Board of Registered Nursing.
- (n) The Board of Behavioral Sciences.
- (o) The State Athletic Commission.
- (p) The Cemetery and Funeral Bureau.
- (q) The State Board of Guide Dogs for the Blind.
- (r) The Bureau of Security and Investigative Services.
- (s) The Court Reporters Board of California.
- (t) The Board of Vocational Nursing and Psychiatric Technicians.

- (u) The Landscape Architects Technical Committee.
- (v) The Division of Investigation.
- (w) The Bureau of Automotive Repair.
- (x) The Respiratory Care Board of California.
- (y) The Acupuncture Board.
- (z) The Board of Psychology.
- (aa) The California Board of Podiatric Medicine.
- (ab) The Physical Therapy Board of California.
- (ac) The Arbitration Review Program.
- (ad) The Physician Assistant Committee.
- (ae) The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.
- (af) The California Board of Occupational Therapy.
- (ag) The Osteopathic Medical Board of California.
- (ah) The Naturopathic Medicine Committee.
- (ai) The Dental Hygiene Committee of California.
- (aj) Any other boards, offices, or officers subject to its jurisdiction by law.

SEC. 1.2. Section 101 of the Business and Professions Code, as amended by Section 1 of Chapter 18 of the Fourth Extraordinary Session of the Statutes of 2009, is amended to read:

101. The department is comprised of:

- (a) The Dental Board of California.
- (b) The Medical Board of California.
- (c) The State Board of Optometry.
- (d) The California State Board of Pharmacy.
- (e) The Veterinary Medical Board.
- (f) The California Board of Accountancy.
- (g) The California Architects Board.
- (h) The Bureau of Barbering and Cosmetology.
- (i) The Board for Professional Engineers and Land Surveyors.
- (j) The Contractors' State License Board.
- (k) The Bureau for Private Postsecondary and Vocational Education.
- (l) The Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation.
- (m) The Board of Registered Nursing.
- (n) The Board of Behavioral Sciences.
- (o) The State Athletic Commission.
- (p) The Cemetery and Funeral Bureau.

- (q) The State Board of Guide Dogs for the Blind.
- (r) The Bureau of Security and Investigative Services.
- (s) The Court Reporters Board of California.
- (t) The Board of Vocational Nursing and Psychiatric Technicians.
- (u) The Landscape Architects Technical Committee.
- (v) The Division of Investigation.
- (w) The Bureau of Automotive Repair.
- (x) The Respiratory Care Board of California.
- (y) The Acupuncture Board.
- (z) The Board of Psychology.
- (aa) The California Board of Podiatric Medicine.
- (ab) The Physical Therapy Board of California.
- (ac) The Arbitration Review Program.
- (ad) The Physician Assistant Committee.
- (ae) The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.
- (af) The California Board of Occupational Therapy.
- (ag) The Osteopathic Medical Board of California.
- (ah) The Naturopathic Medicine Committee.
- (ai) The Dental Hygiene Committee of California.
- (aj) The Professional Fiduciaries Bureau.
- (ak) Any other boards, offices, or officers subject to its jurisdiction by law.

SEC. 1.3. Section 101 of the Business and Professions Code, as amended by Section 1 of Chapter 18 of the Fourth Extraordinary Session of the Statutes of 2009, is amended to read:

101. The department is comprised of:

- (a) The Dental Board of California.
- (b) The Medical Board of California.
- (c) The State Board of Optometry.
- (d) The California State Board of Pharmacy.
- (e) The Veterinary Medical Board.
- (f) The California Board of Accountancy.
- (g) The California Architects Board.
- (h) The Bureau of Barbering and Cosmetology.
- (i) The Board for Professional Engineers and Land Surveyors.
- (j) The Contractors' State License Board.
- (k) The Bureau for Private Postsecondary Education.

- (l) The Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation.
- (m) The Board of Registered Nursing.
- (n) The Board of Behavioral Sciences.
- (o) The State Athletic Commission.
- (p) The Cemetery and Funeral Bureau.
- (q) The State Board of Guide Dogs for the Blind.
- (r) The Bureau of Security and Investigative Services.
- (s) The Court Reporters Board of California.
- (t) The Board of Vocational Nursing and Psychiatric Technicians.
- (u) The Landscape Architects Technical Committee.
- (v) The Division of Investigation.
- (w) The Bureau of Automotive Repair.
- (x) The Respiratory Care Board of California.
- (y) The Acupuncture Board.
- (z) The Board of Psychology.
- (aa) The California Board of Podiatric Medicine.
- (ab) The Physical Therapy Board of California.
- (ac) The Arbitration Review Program.
- (ad) The Physician Assistant Committee.
- (ae) The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.
- (af) The California Board of Occupational Therapy.
- (ag) The Osteopathic Medical Board of California.
- (ah) The Naturopathic Medicine Committee.
- (ai) The Dental Hygiene Committee of California.
- (aj) The Professional Fiduciaries Bureau.
- (ak) Any other boards, offices, or officers subject to its jurisdiction by law.

SEC. 2. Section 149 of the Business and Professions Code, as amended by Section 3 of Chapter 18 of the Fourth Extraordinary Session of the Statutes of 2009, is amended to read:

149. (a) If, upon investigation, an agency designated in subdivision (e) has probable cause to believe that a person is advertising in a telephone directory with respect to the offering or performance of services, without being properly licensed by or registered with the agency to offer or perform those services, the agency may issue a citation under Section 148 containing an order of correction that requires the violator to do both of the following:

(1) Cease the unlawful advertising.

(2) Notify the telephone company furnishing services to the violator to disconnect the telephone service furnished to any telephone number contained in the unlawful advertising.

(b) This action is stayed if the person to whom a citation is issued under subdivision (a) notifies the agency in writing that he or she intends to contest the citation. The agency shall afford an opportunity for a hearing, as specified in Section 125.9.

(c) If the person to whom a citation and order of correction is issued under subdivision (a) fails to comply with the order of correction after that order is final, the agency shall inform the Public Utilities Commission of the violation and the Public Utilities Commission shall require the telephone corporation furnishing services to that person to disconnect the telephone service furnished to any telephone number contained in the unlawful advertising.

(d) The good faith compliance by a telephone corporation with an order of the Public Utilities Commission to terminate service issued pursuant to this section shall constitute a complete defense to any civil or criminal action brought against the telephone corporation arising from the termination of service.

(e) Subdivision (a) shall apply to the following boards, bureaus, committees, commissions, or programs:

- (1) The Bureau of Barbering and Cosmetology.
- (2) The Cemetery and Funeral Bureau.
- (3) The Veterinary Medical Board.
- (4) The Landscape Architects Technical Committee.
- (5) The California Board of Podiatric Medicine.
- (6) The Respiratory Care Board of California.
- (7) The Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation.
- (8) The Bureau of Security and Investigative Services.
- (9) The Bureau of Automotive Repair.
- (10) The California Architects Board.
- (11) The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.
- (12) The Board for Professional Engineers and Land Surveyors.
- (13) The Board of Behavioral Sciences.
- (14) The Structural Pest Control Board within the Department of Pesticide Regulation.
- (15) The Acupuncture Board.

- (16) The Board of Psychology.
- (17) The California Board of Accountancy.
- (18) The Naturopathic Medicine Committee.

SEC. 2.1. Section 149 of the Business and Professions Code, as amended by Section 3 of Chapter 18 of the Fourth Extraordinary Session of the Statutes of 2009, is amended to read:

149. (a) If, upon investigation, an agency designated in subdivision (e) has probable cause to believe that a person is advertising in a telephone directory with respect to the offering or performance of services, without being properly licensed by or registered with the agency to offer or perform those services, the agency may issue a citation under Section 148 containing an order of correction that requires the violator to do both of the following:

(1) Cease the unlawful advertising.

(2) Notify the telephone company furnishing services to the violator to disconnect the telephone service furnished to any telephone number contained in the unlawful advertising.

(b) This action is stayed if the person to whom a citation is issued under subdivision (a) notifies the agency in writing that he or she intends to contest the citation. The agency shall afford an opportunity for a hearing, as specified in Section 125.9.

(c) If the person to whom a citation and order of correction is issued under subdivision (a) fails to comply with the order of correction after that order is final, the agency shall inform the Public Utilities Commission of the violation and the Public Utilities Commission shall require the telephone corporation furnishing services to that person to disconnect the telephone service furnished to any telephone number contained in the unlawful advertising.

(d) The good faith compliance by a telephone corporation with an order of the Public Utilities Commission to terminate service issued pursuant to this section shall constitute a complete defense to any civil or criminal action brought against the telephone corporation arising from the termination of service.

(e) Subdivision (a) shall apply to the following boards, bureaus, committees, commissions, or programs:

- (1) The Bureau of Barbering and Cosmetology.
- (2) The Cemetery and Funeral Bureau.
- (3) The Veterinary Medical Board.
- (4) The Landscape Architects Technical Committee.
- (5) The California Board of Podiatric Medicine.

- (6) The Respiratory Care Board of California.
- (7) The Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation.
- (8) The Bureau of Security and Investigative Services.
- (9) The Bureau of Automotive Repair.
- (10) The California Architects Board.
- (11) The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.
- (12) The Board for Professional Engineers and Land Surveyors.
- (13) The Board of Behavioral Sciences.
- (14) The Structural Pest Control Board within the Department of Pesticide Regulation.
- (15) The Acupuncture Board.
- (16) The Board of Psychology.
- (17) The California Board of Accountancy.
- (18) The Naturopathic Medicine Committee.
- (19) The Bureau for Private Postsecondary Education.

SEC. 2.2. Section 149 of the Business and Professions Code, as amended by Section 3 of Chapter 18 of the Fourth Extraordinary Session of the Statutes of 2009, is amended to read:

149. (a) If, upon investigation, an agency designated in subdivision (e) has probable cause to believe that a person is advertising in a telephone directory with respect to the offering or performance of services, without being properly licensed by or registered with the agency to offer or perform those services, the agency may issue a citation under Section 148 containing an order of correction that requires the violator to do both of the following:

- (1) Cease the unlawful advertising.
- (2) Notify the telephone company furnishing services to the violator to disconnect the telephone service furnished to any telephone number contained in the unlawful advertising.

(b) This action is stayed if the person to whom a citation is issued under subdivision (a) notifies the agency in writing that he or she intends to contest the citation. The agency shall afford an opportunity for a hearing, as specified in Section 125.9.

(c) If the person to whom a citation and order of correction is issued under subdivision (a) fails to comply with the order of correction after that order is final, the agency shall inform the Public Utilities Commission of the violation and the Public Utilities Commission shall require the telephone corporation furnishing

services to that person to disconnect the telephone service furnished to any telephone number contained in the unlawful advertising.

(d) The good faith compliance by a telephone corporation with an order of the Public Utilities Commission to terminate service issued pursuant to this section shall constitute a complete defense to any civil or criminal action brought against the telephone corporation arising from the termination of service.

(e) Subdivision (a) shall apply to the following boards, bureaus, committees, commissions, or programs:

- (1) The Bureau of Barbering and Cosmetology.
- (2) The Cemetery and Funeral Bureau.
- (3) The Veterinary Medical Board.
- (4) The Landscape Architects Technical Committee.
- (5) The California Board of Podiatric Medicine.
- (6) The Respiratory Care Board of California.
- (7) The Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation.
- (8) The Bureau of Security and Investigative Services.
- (9) The Bureau of Automotive Repair.
- (10) The California Architects Board.
- (11) The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.
- (12) The Board for Professional Engineers and Land Surveyors.
- (13) The Board of Behavioral Sciences.
- (14) The Structural Pest Control Board within the Department of Pesticide Regulation.
- (15) The Acupuncture Board.
- (16) The Board of Psychology.
- (17) The California Board of Accountancy.
- (18) The Naturopathic Medicine Committee.
- (19) The Physical Therapy Board.

SEC. 2.3. Section 149 of the Business and Professions Code, as amended by Section 3 Chapter 18 of the Fourth Extraordinary Session of the Statutes of 2009, is amended to read:

149. (a) If, upon investigation, an agency designated in subdivision (e) has probable cause to believe that a person is advertising in a telephone directory with respect to the offering or performance of services, without being properly licensed by or registered with the agency to offer or perform those services, the

agency may issue a citation under Section 148 containing an order of correction that requires the violator to do both of the following:

(1) Cease the unlawful advertising.

(2) Notify the telephone company furnishing services to the violator to disconnect the telephone service furnished to any telephone number contained in the unlawful advertising.

(b) This action is stayed if the person to whom a citation is issued under subdivision (a) notifies the agency in writing that he or she intends to contest the citation. The agency shall afford an opportunity for a hearing, as specified in Section 125.9.

(c) If the person to whom a citation and order of correction is issued under subdivision (a) fails to comply with the order of correction after that order is final, the agency shall inform the Public Utilities Commission of the violation and the Public Utilities Commission shall require the telephone corporation furnishing services to that person to disconnect the telephone service furnished to any telephone number contained in the unlawful advertising.

(d) The good faith compliance by a telephone corporation with an order of the Public Utilities Commission to terminate service issued pursuant to this section shall constitute a complete defense to any civil or criminal action brought against the telephone corporation arising from the termination of service.

(e) Subdivision (a) shall apply to the following boards, bureaus, committees, commissions, or programs:

(1) The Bureau of Barbering and Cosmetology.

(2) The Cemetery and Funeral Bureau.

(3) The Veterinary Medical Board.

(4) The Landscape Architects Technical Committee.

(5) The California Board of Podiatric Medicine.

(6) The Respiratory Care Board of California.

(7) The Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation.

(8) The Bureau of Security and Investigative Services.

(9) The Bureau of Automotive Repair.

(10) The California Architects Board.

(11) The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.

(12) The Board for Professional Engineers and Land Surveyors.

(13) The Board of Behavioral Sciences.

(14) The Structural Pest Control Board within the Department of Pesticide Regulation.

(15) The Acupuncture Board.

(16) The Board of Psychology.

(17) The California Board of Accountancy.

(18) The Naturopathic Medicine Committee.

(19) The Bureau for Private Postsecondary Education.

(20) The Physical Therapy Board.

SEC. 3. Section 205 of the Business and Professions Code, as amended by Section 4 of Chapter 18 of the Fourth Extraordinary Session of the Statutes of 2009, is amended to read:

205. (a) There is in the State Treasury the Professions and Vocations Fund. The fund shall consist of the following special funds:

(1) Accountancy Fund.

(2) California Architects Board Fund.

(3) Athletic Commission Fund.

(4) Barbering and Cosmetology Contingent Fund.

(5) Cemetery Fund.

(6) Contractors' License Fund.

(7) State Dentistry Fund.

(8) State Funeral Directors and Embalmers Fund.

(9) Guide Dogs for the Blind Fund.

(10) Home Furnishings and Thermal Insulation Fund.

(11) California Architects Board-Landscape Architects Fund.

(12) Contingent Fund of the Medical Board of California.

(13) Optometry Fund.

(14) Pharmacy Board Contingent Fund.

(15) Physical Therapy Fund.

(16) Private Investigator Fund.

(17) Professional Engineers' and Land Surveyors' Fund.

(18) Consumer Affairs Fund.

(19) Behavioral Sciences Fund.

(20) Licensed Midwifery Fund.

(21) Court Reporters' Fund.

(22) Veterinary Medical Board Contingent Fund.

(23) Vocational Nurses Account of the Vocational Nursing and Psychiatric Technicians Fund.

(24) Electronic and Appliance Repair Fund.

(25) Geology and Geophysics Fund.

- (26) Dispensing Opticians Fund.
- (27) Acupuncture Fund.
- (28) Physician Assistant Fund.
- (29) Board of Podiatric Medicine Fund.
- (30) Psychology Fund.
- (31) Respiratory Care Fund.
- (32) Speech-Language Pathology and Audiology Fund.
- (33) Board of Registered Nursing Fund.
- (34) Psychiatric Technician Examiners Account of the Vocational Nursing and Psychiatric Technicians Fund.
- (35) Animal Health Technician Examining Committee Fund.
- (36) State Dental Hygiene Fund.
- (37) State Dental Assistant Fund.
- (38) Hearing Aid Dispensers Account of the Speech-Language Pathology and Audiology Fund.

(b) For accounting and recordkeeping purposes, the Professions and Vocations Fund shall be deemed to be a single special fund, and each of the several special funds therein shall constitute and be deemed to be a separate account in the Professions and Vocations Fund. Each account or fund shall be available for expenditure only for the purposes as are now or may hereafter be provided by law.

SEC. 3.5. Section 2220.5 of the Business and Professions Code is amended to read:

2220.5. (a) The Medical Board of California is the only licensing board that is authorized to investigate or commence disciplinary actions relating to physicians and surgeons who have been issued a certificate pursuant to Section 2050.

(b) For purposes of this section, “investigate or commence disciplinary actions” shall mean written, oral, or telephonic communication with a physician or surgeon concerning his or her violation of the Medical Practice Act or any other provision of this division.

(c) Written complaints that are subject to Section 43.96 of the Civil Code, relating to the professional conduct or professional competence of physicians and surgeons, shall be processed in accordance with that section.

SEC. 4. Section 2530.2 of the Business and Professions Code is amended to read:

2530.2. As used in this chapter, unless the context otherwise requires:

(a) “Board” means the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board. As used in this chapter or any other provision of law, “Speech-Language Pathology and Audiology Board” shall be deemed to refer to the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board or any other successor.

(b) “Person” means any individual, partnership, corporation, limited liability company, or other organization or combination thereof, except that only individuals can be licensed under this chapter.

(c) A “speech-language pathologist” is a person who practices speech-language pathology.

(d) The practice of speech-language pathology means all of the following:

(1) The application of principles, methods, instrumental procedures, and noninstrumental procedures for measurement, testing, screening, evaluation, identification, prediction, and counseling related to the development and disorders of speech, voice, language, or swallowing.

(2) The application of principles and methods for preventing, planning, directing, conducting, and supervising programs for habilitating, rehabilitating, ameliorating, managing, or modifying disorders of speech, voice, language, or swallowing in individuals or groups of individuals.

(3) Conducting hearing screenings.

(4) Performing suctioning in connection with the scope of practice described in paragraphs (1) and (2), after compliance with a medical facility’s training protocols on suctioning procedures.

(e) (1) Instrumental procedures referred to in subdivision (d) are the use of rigid and flexible endoscopes to observe the pharyngeal and laryngeal areas of the throat in order to observe, collect data, and measure the parameters of communication and swallowing as well as to guide communication and swallowing assessment and therapy.

(2) Nothing in this subdivision shall be construed as a diagnosis. Any observation of an abnormality shall be referred to a physician and surgeon.

(f) A licensed speech-language pathologist shall not perform a flexible fiberoptic nasendoscopic procedure unless he or she has received written verification from an otolaryngologist certified by the American Board of Otolaryngology that the speech-language pathologist has performed a minimum of 25 flexible fiberoptic nasendoscopic procedures and is competent to perform these procedures. The speech-language pathologist shall have this written verification on file and readily available for inspection upon request by the board. A speech-language pathologist shall pass a flexible fiberoptic nasendoscopic instrument only under the direct authorization of an otolaryngologist certified by the American Board of Otolaryngology and the supervision of a physician and surgeon.

(g) A licensed speech-language pathologist shall only perform flexible endoscopic procedures described in subdivision (e) in a setting that requires the facility to have protocols for emergency medical backup procedures, including a physician and surgeon or other appropriate medical professionals being readily available.

(h) “Speech-language pathology aide” means any person meeting the minimum requirements established by the board, who works directly under the supervision of a speech-language pathologist.

(i) (1) “Speech-language pathology assistant” means a person who meets the academic and supervised training requirements set forth by the board and who is approved by the board to assist in the provision of speech-language pathology under the direction and supervision of a speech-language pathologist who shall be responsible for the extent, kind, and quality of the services provided by the speech-language pathology assistant.

(2) The supervising speech-language pathologist employed or contracted for by a public school may hold a valid and current license issued by the board, a valid, current, and professional clear clinical or rehabilitative services credential in language, speech, and hearing issued by the Commission on Teacher Credentialing, or other credential authorizing service in language, speech, and hearing issued by the Commission on Teacher Credentialing that is not issued on the basis of an emergency permit or waiver of requirements. For purposes of this paragraph, a “clear” credential is a credential that is not issued pursuant to a waiver or emergency permit and is as otherwise defined by the Commission on Teacher

Credentialing. Nothing in this section referring to credentialed supervising speech-language pathologists expands existing exemptions from licensing pursuant to Section 2530.5.

(j) An “audiologist” is one who practices audiology.

(k) “The practice of audiology” means the application of principles, methods, and procedures of measurement, testing, appraisal, prediction, consultation, counseling, and instruction related to auditory, vestibular, and related functions and the modification of communicative disorders involving speech, language, auditory behavior or other aberrant behavior resulting from auditory dysfunction; and the planning, directing, conducting, supervising, or participating in programs of identification of auditory disorders, hearing conservation, cerumen removal, aural habilitation, and rehabilitation, including, hearing aid recommendation and evaluation procedures including, but not limited to, specifying amplification requirements and evaluation of the results thereof, auditory training, speech reading, and the selling of hearing aids.

(l) “Audiology aide” means any person, meeting the minimum requirements established by the board, who works directly under the supervision of an audiologist.

(m) “Medical board” means the Medical Board of California.

(n) A “hearing screening” performed by a speech-language pathologist means a binary puretone screening at a preset intensity level for the purpose of determining if the screened individuals are in need of further medical or audiological evaluation.

(o) “Cerumen removal” means the nonroutine removal of cerumen within the cartilaginous ear canal necessary for access in performance of audiological procedures that shall occur under physician and surgeon supervision. Cerumen removal, as provided by this section, shall only be performed by a licensed audiologist. Physician and surgeon supervision shall not be construed to require the physical presence of the physician, but shall include all of the following:

(1) Collaboration on the development of written standardized protocols. The protocols shall include a requirement that the supervised audiologist immediately refer to an appropriate physician any trauma, including skin tears, bleeding, or other pathology of the ear discovered in the process of cerumen removal as defined in this subdivision.

(2) Approval by the supervising physician of the written standardized protocol.

(3) The supervising physician shall be within the general vicinity, as provided by the physician-audiologist protocol, of the supervised audiologist and available by telephone contact at the time of cerumen removal.

(4) A licensed physician and surgeon may not simultaneously supervise more than two audiologists for purposes of cerumen removal.

SEC. 4.5. Section 2530.2 of the Business and Professions Code is amended to read:

2530.2. As used in this chapter, unless the context otherwise requires:

(a) “Board” means the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board. As used in this chapter or any other provision of law, “Speech-Language Pathology and Audiology Board” shall be deemed to refer to the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board or any successor.

(b) “Person” means any individual, partnership, corporation, limited liability company, or other organization or combination thereof, except that only individuals can be licensed under this chapter.

(c) A “speech-language pathologist” is a person who practices speech-language pathology.

(d) The practice of speech-language pathology means all of the following:

(1) The application of principles, methods, instrumental procedures, and noninstrumental procedures for measurement, testing, screening, evaluation, identification, prediction, and counseling related to the development and disorders of speech, voice, language, or swallowing.

(2) The application of principles and methods for preventing, planning, directing, conducting, and supervising programs for habilitating, rehabilitating, ameliorating, managing, or modifying disorders of speech, voice, language, or swallowing in individuals or groups of individuals.

(3) Conducting hearing screenings.

(4) Performing suctioning in connection with the scope of practice described in paragraphs (1) and (2), after compliance with a medical facility's training protocols on suctioning procedures.

(e) (1) Instrumental procedures referred to in subdivision (d) are the use of rigid and flexible endoscopes to observe the pharyngeal and laryngeal areas of the throat in order to observe, collect data, and measure the parameters of communication and swallowing as well as to guide communication and swallowing assessment and therapy.

(2) Nothing in this subdivision shall be construed as a diagnosis. Any observation of an abnormality shall be referred to a physician and surgeon.

(f) A licensed speech-language pathologist shall not perform a flexible fiberoptic nasendoscopic procedure unless he or she has received written verification from an otolaryngologist certified by the American Board of Otolaryngology that the speech-language pathologist has performed a minimum of 25 flexible fiberoptic nasendoscopic procedures and is competent to perform these procedures. The speech-language pathologist shall have this written verification on file and readily available for inspection upon request by the board. A speech-language pathologist shall pass a flexible fiberoptic nasendoscopic instrument only under the direct authorization of an otolaryngologist certified by the American Board of Otolaryngology and the supervision of a physician and surgeon.

(g) A licensed speech-language pathologist shall only perform flexible endoscopic procedures described in subdivision (e) in a setting that requires the facility to have protocols for emergency medical backup procedures, including a physician and surgeon or other appropriate medical professionals being readily available.

(h) "Speech-language pathology aide" means any person meeting the minimum requirements established by the board, who works directly under the supervision of a speech-language pathologist.

(i) (1) "Speech-language pathology assistant" means a person who meets the academic and supervised training requirements set forth by the board and who is approved by the board to assist in the provision of speech-language pathology under the direction and supervision of a speech-language pathologist who shall be

responsible for the extent, kind, and quality of the services provided by the speech-language pathology assistant.

(2) The supervising speech-language pathologist employed or contracted for by a public school may hold a valid and current license issued by the board, a valid, current, and professional clear clinical or rehabilitative services credential in language, speech, and hearing issued by the Commission on Teacher Credentialing, or other credential authorizing service in language, speech, and hearing issued by the Commission on Teacher Credentialing that is not issued on the basis of an emergency permit or waiver of requirements. For purposes of this paragraph, a “clear” credential is a credential that is not issued pursuant to a waiver or emergency permit and is as otherwise defined by the Commission on Teacher Credentialing. Nothing in this section referring to credentialed supervising speech-language pathologists expands existing exemptions from licensing pursuant to Section 2530.5.

(j) An “audiologist” is one who practices audiology.

(k) “The practice of audiology” means the application of principles, methods, and procedures of measurement, testing, appraisal, prediction, consultation, counseling, instruction related to auditory, vestibular, and related functions and the modification of communicative disorders involving speech, language, auditory behavior or other aberrant behavior resulting from auditory dysfunction; and the planning, directing, conducting, supervising, or participating in programs of identification of auditory disorders, hearing conservation, cerumen removal, aural habilitation, and rehabilitation, including, hearing aid recommendation and evaluation procedures including, but not limited to, specifying amplification requirements and evaluation of the results thereof, auditory training, and speech reading, and the selling of hearing aids.

(l) “Audiology aide” means any person, meeting the minimum requirements established by the board. An audiology aide may not perform any function that constitutes the practice of audiology unless he or she is under the supervision of an audiologist. The board may by regulation exempt certain functions performed by an industrial audiology aide from supervision provided that his or her employer has established a set of procedures or protocols that the aide shall follow in performing these functions.

(m) “Medical board” means the Medical Board of California.

(n) A “hearing screening” performed by a speech-language pathologist means a binary puretone screening at a preset intensity level for the purpose of determining if the screened individuals are in need of further medical or audiological evaluation.

(o) “Cerumen removal” means the nonroutine removal of cerumen within the cartilaginous ear canal necessary for access in performance of audiological procedures that shall occur under physician and surgeon supervision. Cerumen removal, as provided by this section, shall only be performed by a licensed audiologist. Physician and surgeon supervision shall not be construed to require the physical presence of the physician, but shall include all of the following:

(1) Collaboration on the development of written standardized protocols. The protocols shall include a requirement that the supervised audiologist immediately refer to an appropriate physician any trauma, including skin tears, bleeding, or other pathology of the ear discovered in the process of cerumen removal as defined in this subdivision.

(2) Approval by the supervising physician of the written standardized protocol.

(3) The supervising physician shall be within the general vicinity, as provided by the physician-audiologist protocol, of the supervised audiologist and available by telephone contact at the time of cerumen removal.

(4) A licensed physician and surgeon may not simultaneously supervise more than two audiologists for purposes of cerumen removal.

SEC. 5. Section 2531 of the Business and Professions Code is amended to read:

2531. (a) There is in the Department of Consumer Affairs a Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board in which the enforcement and administration of this chapter are vested. The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board shall consist of nine members, three of whom shall be public members.

(b) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 6. Section 2531.05 of the Business and Professions Code is repealed.

SEC. 7. Section 2531.05 is added to the Business and Professions Code, to read:

2531.05. (a) The Hearing Aid Dispensing Committee is hereby created within the jurisdiction of the board.

(b) The committee shall be comprised of the following board members:

(1) The two licensed audiologists.

(2) The two licensed hearing aid dispensers.

(3) One public member of the board.

(4) The public member of the board who is a licensed physician and surgeon and who is board certified in otolaryngology.

(c) The committee shall review and research the practice of fitting or selling hearing aids and shall advise the board about this practice based on that review and research.

SEC. 8. Section 2531.06 is added to the Business and Professions Code, to read:

2531.06. The board is vested with the duties, powers, purposes, responsibilities, and jurisdiction over the licensing and regulation of hearing aid dispensers as provided under the Hearing Aid Dispenser Licensing Law (Chapter 7.5 (commencing with Section 3300)).

SEC. 9. Section 2531.2 of the Business and Professions Code is amended to read:

2531.2. The membership of the board shall include two licensed speech-language pathologists, two licensed audiologists, one of whom shall be an audiologist that dispenses hearing aids, two licensed hearing aid dispensers, and three public members one of whom is a licensed physician and surgeon, board certified in otolaryngology, and the remaining two public members who shall not be licentiates of the board or of any board under this division or of any board referred to in the Chiropractic Act or the Osteopathic Act.

The Governor shall appoint the physician and surgeon member and the other six licensed members qualified as provided in this section. The initial appointments of the licensed hearing aid dispenser members shall be made to fill the first licensed audiologist member vacancy and the first licensed speech-language pathologist member vacancy that occurs on or after January 1,

2010. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint a public member.

SEC. 10. Section 2534 of the Business and Professions Code is amended to read:

2534. The board shall report to the Controller at the beginning of each month for the month preceding the amount and source of all revenue received by it pursuant to this chapter and Chapter 7.5 (commencing with Section 3300), and shall pay the entire amount thereof to the Treasurer for deposit in the Speech-Language Pathology and Audiology Fund, which fund is hereby created to carry out the purposes of this chapter and Chapter 7.5 (commencing with Section 3300).

SEC. 11. Section 2534.2 of the Business and Professions Code is amended to read:

2534.2. The amount of the fees prescribed by this chapter is that established by the following schedule:

(a) (1) The application fee and renewal fee for speech-language pathologists and nondispensing audiologists shall be established by the board in an amount that does not exceed one hundred fifty dollars (\$150) but is sufficient to support the functions of the board that relate to the functions authorized by this chapter, excluding Article 9 (commencing with Section 2539.1).

(2) The application fee and renewal fee for dispensing audiologists shall be established by the board in an amount that does not exceed two hundred eighty dollars (\$280) but is sufficient to support the functions of the board that relate to the functions authorized by this chapter.

(b) The delinquency fee shall be twenty-five dollars (\$25).

(c) The reexamination fee shall be established by the board in an amount that does not exceed seventy-five dollars (\$75).

(d) The fee for registration of an aide shall be established by the board in an amount that does not exceed thirty dollars (\$30).

(e) A fee to be set by the board of not more than one hundred dollars (\$100) shall be charged for each application for approval as a speech-language pathology assistant.

(f) A fee of one hundred fifty dollars (\$150) shall be charged for the issuance of and for the renewal of each approval as a speech-language pathology assistant, unless a lower fee is established by the board.

(g) The duplicate wall certificate fee is twenty-five dollars (\$25).

(h) The duplicate renewal receipt fee is twenty-five dollars (\$25).

(i) The application fee and renewal fee for a temporary license is thirty dollars (\$30).

(j) The fee for issuance of a license status and history certification letter shall be established by the board in an amount not to exceed twenty-five dollars (\$25).

SEC. 12. Article 9 (commencing with Section 2539.1) is added to Chapter 5.3 of Division 2 of the Business and Professions Code, to read:

Article 9. Hearing Aids

2539.1. (a) (1) On and after January 1, 2010, in addition to satisfying the licensure and examination requirements described in Sections 2532 and 2532.2, no licensed audiologist shall sell hearing aids unless he or she has completed an application for a dispensing audiologist certificate, paid all applicable fees, and passed an examination, approved by the board, relating to selling hearing aids.

(2) The board shall issue a dispensing audiologist certificate to a licensed audiologist who meets the requirements of paragraph (1).

(b) On and after January 1, 2010, a licensed audiologist with an unexpired license to sell hearing aids pursuant to Chapter 7.5 (commencing with Section 3300) may continue to sell hearing aids pursuant to that license until that license expires pursuant to Section 3451, and upon that expiration the licensee shall be deemed to have satisfied the requirements described in subdivision (a) and may continue to sell hearing aids pursuant to his or her audiology license subject to the provisions of this chapter. A licensed audiologist whose license to sell hearing aids, issued pursuant to Chapter 7.5 (commencing with Section 3300), is suspended or revoked shall not be authorized to sell hearing aids pursuant to this subdivision and he or she shall be subject to the requirements described in subdivision (a) as well as the other provisions of this chapter.

(c) For purposes of subdivision (a), the board shall provide the hearing aid dispenser's examination provided by the former Hearing Aid Dispensers Bureau until such time as the next

examination validation and occupational analysis is completed by the Department of Consumer Affairs pursuant to Section 139 and a determination is made that a different examination is to be administered.

2539.2. (a) Hearing aids may be sold by catalog or direct mail provided that:

(1) The seller is licensed as an audiologist in this state and is authorized to sell hearing aids pursuant to Section 2539.1.

(2) There is no fitting, selection, or adaptation of the instrument and no advice is given with respect to fitting, selection, or adaptation of the instrument and no advice is given with respect to the taking of an ear impression for an earmold by the seller.

(3) The seller has received a statement which is signed by a physician and surgeon, audiologist, or a hearing aid dispenser, licensed by the State of California which verifies that Section 2539.6 has been complied with.

(b) A copy of the statement referred to in paragraph (3) of subdivision (a) shall be retained by the seller for the period provided for in Section 2539.10.

2539.4. A licensed audiologist shall, upon the consummation of a sale of a hearing aid, deliver to the purchaser a written receipt, signed by or on behalf of the licensed audiologist, containing all of the following:

(a) The date of consummation of the sale.

(b) Specifications as to the make, serial number, and model number of the hearing aid or aids sold.

(c) The address of the principal place of business of the licensed audiologist, and the address and office hours at which the licensed audiologist shall be available for fitting or postfitting adjustments and servicing of the hearing aid or aids sold.

(d) A statement to the effect that the aid or aids delivered to the purchaser are used or reconditioned, as the case may be, if that is the fact.

(e) The number of the licensed audiologist's license and the name and license number of any other hearing aid dispenser, temporary licensee, or audiologist who provided any recommendation or consultation regarding the purchase of the hearing aid.

(f) The terms of any guarantee or written warranty, required by Section 1793.02 of the Civil Code, made to the purchaser with respect to the hearing aid or hearing aids.

2539.6. (a) Whenever any of the following conditions are found to exist either from observations by the licensed audiologist or on the basis of information furnished by the prospective hearing aid user, a licensed audiologist shall, prior to fitting or selling a hearing aid to any individual, suggest to that individual in writing that his or her best interests would be served if he or she would consult a licensed physician specializing in diseases of the ear or if no licensed physician is available in the community then to a duly licensed physician:

- (1) Visible congenital or traumatic deformity of the ear.
- (2) History of, or active, drainage from the ear within the previous 90 days.
- (3) History of sudden or rapidly progressive hearing loss within the previous 90 days.
- (4) Acute or chronic dizziness.
- (5) Unilateral hearing loss of sudden or recent onset within the previous 90 days.
- (6) Significant air-bone gap (when generally acceptable standards have been established).

(b) No referral for medical opinion need be made by any licensed audiologist in the instance of replacement only of a hearing aid that has been lost or damaged beyond repair within one year of the date of purchase. A copy of the written recommendation shall be retained by the licensed audiologist for the period provided for in Section 2539.10. A person receiving the written recommendation who elects to purchase a hearing aid shall sign a receipt for the same, and the receipt shall be kept with the other papers retained by the licensed audiologist for the period provided for in Section 2539.10. Nothing in this section required to be performed by a licensed audiologist shall mean that the licensed audiologist is engaged in the diagnosis of illness or the practice of medicine or any other activity prohibited by the provisions of this code.

2539.8. No hearing aid shall be sold by an individual licensed as an audiologist under this chapter to a person 16 years of age or younger, unless within the preceding six months a recommendation for a hearing aid has been made by both a board-certified, or a

board-eligible physician specializing in otolaryngology, and by a state licensed audiologist. A replacement of an identical hearing aid within one year shall be an exception to this requirement.

2539.10. A licensed audiologist shall, upon the consummation of a sale of a hearing aid, keep and maintain records in his or her office or place of business at all times and each such record shall be kept and maintained for a seven-year period. These records shall include:

(a) Results of test techniques as they pertain to fitting of the hearing aid.

(b) A copy of the written receipt required by Section 2539.4 and the written recommendation and receipt required by Section 2539.6, when applicable.

2539.12. A licensed audiologist who is the owner, manager, or franchisee at a location where hearing aids are fit or sold, shall be responsible for the adequacy of the fitting or selling of any hearing aid fit and sold by any licensee or licensees at that location.

2539.14. The provisions of subdivisions (b) and (c) of Section 3306 and the provisions of Section 3306.3 do not apply to a licensed audiologist who satisfies the requirements of Section 2539.1.

SEC. 13. Section 3300 of the Business and Professions Code is amended to read:

3300. For the purposes of this chapter, the following definitions shall apply:

(a) “Person” includes any individual, partnership, corporation, limited liability company, or other organization, or any combination thereof.

(b) “Advertise” and its variants include the use of a newspaper, magazine, or other publication, book, notice, circular, pamphlet, letter, handbill, poster, bill, sign, placard, card, label, tag, window display, store sign, radio, or television announcement, or any other means or methods now or hereafter employed to bring to the attention of the public the practice of fitting or selling of hearing aids.

(c) “Board” means the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.

(d) “License” means a hearing aid dispenser’s license issued pursuant to this chapter and includes a temporary license.

(e) “Licensee” means a person holding a license.

(f) “Hearing aid” means any wearable instrument or device designed for, or offered for the purpose of, aiding or compensating for impaired human hearing.

(g) “Fund” means the Speech-Language Pathology and Audiology Fund.

(h) “Account” means the Hearing Aid Dispensers Account of the Speech-Language Pathology and Audiology Fund. As used in this chapter or any other provision of law, “Hearing Aid Dispensers Fund” shall be deemed to refer to the Hearing Aid Dispensers Account of the Speech-Language Pathology and Audiology Fund.

SEC. 14. Section 3306 of the Business and Professions Code is amended to read:

3306. (a) “Practice of fitting or selling hearing aids,” as used in this chapter, means those practices used for the purpose of selection and adaptation of hearing aids, including direct observation of the ear, testing of hearing in connection with the fitting and selling of hearing aids, taking of ear mold impressions, fitting or sale of hearing aids, and any necessary postfitting counseling.

The practice of fitting or selling hearing aids does not include the act of concluding the transaction by a retail clerk.

When any audiometer or other equipment is used in the practice of fitting or selling hearing aids, it shall be kept properly calibrated and in good working condition, and the calibration of the audiometer or other equipment shall be checked at least annually.

(b) A hearing aid dispenser shall not conduct diagnostic hearing tests when conducting tests in connection with the practice of fitting or selling hearing aids.

(c) Hearing tests conducted pursuant to this chapter shall include those that are in compliance with the Food and Drug Administration Guidelines for Hearing Aid Devices and those that are specifically covered in the licensing examination prepared and administered by the board.

SEC. 15. Section 3307 of the Business and Professions Code is amended to read:

3307. “Hearing aid dispenser,” as used in this chapter, means a person engaged in the practice of fitting or selling hearing aids to an individual with impaired hearing.

SEC. 16. Section 3320 of the Business and Professions Code is repealed.

SEC. 17. Section 3320 is added to the Business and Professions Code, to read:

3320. (a) The duties, powers, purposes, responsibilities, and jurisdiction of the Hearing Aid Dispensers Bureau within the Department of Consumer Affairs are hereby transferred to the Speech-Language Pathology and Audiology Board.

(b) Any reference to the bureau in this chapter and its regulations, and elsewhere, shall be construed as a reference to the board.

(c) In the performance of the duties and the exercise of the powers vested in the board under this chapter, the board may consult with industry representatives.

(d) For the performance of the duties and the exercise of the powers vested in the board under this chapter, the board shall have possession and control of all records, papers, offices, equipment, supplies, or other property, real or personal, held for the benefit or use by the former Hearing Aid Dispensers Bureau.

(e) All regulations in Division 13.3 (commencing with Section 1399.100) of Title 16 of the California Code of Regulations are continued in existence under the administration of the board.

SEC. 18. Section 3320.1 of the Business and Professions Code is amended to read:

3320.1. Protection of the public shall be the highest priority for the board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 19. Section 3321 of the Business and Professions Code is repealed.

SEC. 20. Section 3322 is added to the Business and Professions Code, to read:

3322. (a) The duty of administering and enforcing this chapter is vested in the board.

(b) The board is vested with the duties, powers, purposes, responsibilities, and jurisdiction granted under this chapter and under Chapter 5.3 (commencing with Section 2530).

SEC. 21. Section 3325 of the Business and Professions Code is repealed.

SEC. 22. Section 3326 of the Business and Professions Code is amended to read:

3326. The board shall keep a record of all prosecutions for violations of this chapter and of all examinations held for applicants for licenses together with the names and addresses of all persons taking examinations and of their success or failure to pass them.

SEC. 23. Section 3327 of the Business and Professions Code is amended to read:

3327. The board may recommend the preparation of and administration of a course of instruction concerned with the fitting and selection of hearing aids. The board may require applicants to first complete the required course of instruction or otherwise satisfy the board that the applicant possesses the necessary background and qualifications to fit or sell hearing aids. If the board promulgates regulations to implement this section to require a course of instruction concerned with fitting and selling hearing aids, the board shall obtain the advice of persons knowledgeable in the preparation and administration of a course of instruction.

The board may publish and distribute information concerning the examination requirements for obtaining a license to engage in the practice of fitting and selling hearing aids within this state.

SEC. 24. Section 3327.5 of the Business and Professions Code is amended to read:

3327.5. All holders of licenses to sell or fit hearing aids shall continue their education after receiving the license. The board shall provide by regulation, as a condition to the renewal of a license, that licensees shall submit documentation satisfactory to the board that they have informed themselves of current practices related to the fitting of hearing aids by having pursued courses of study satisfactory to the board or by other means defined as equivalent by the board.

Continuing education courses shall be subject to monitoring to ensure compliance with the regulations adopted by the board pursuant to this section.

SEC. 25. Section 3328 of the Business and Professions Code is amended to read:

3328. The board may adopt, amend, or repeal, in accordance with the provisions of the Administrative Procedure Act, regulations that are necessary to enable the board to carry into effect the provisions of law relating to the practice of fitting or selling hearing aids.

SEC. 26. Section 3329 of the Business and Professions Code is amended to read:

3329. (a) The board may prosecute any and all persons for any violation of this chapter.

(b) The board shall hear and decide all matters, including but not limited to, any contested case or any petition for reinstatement or modification of probation, or may assign any of those matters to an administrative law judge in accordance with the Administrative Procedure Act. Except as otherwise provided in this chapter, all hearings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 27. Section 3330 of the Business and Professions Code is repealed.

SEC. 28. Section 3350 of the Business and Professions Code is amended to read:

3350. It is unlawful for an individual to engage in the practice of fitting or selling hearing aids, or to display a sign or in any other way to advertise or hold himself or herself out as being so engaged without having first obtained a license from the board under the provisions of this chapter. Nothing in this chapter shall prohibit a corporation, partnership, trust, association or other like organization maintaining an established business address from engaging in the business of fitting or selling, or offering for sale, hearing aids at retail without a license, provided that any and all fitting or selling of hearing aids is conducted by the individuals who are licensed pursuant to the provisions of this chapter. A person whose license as a hearing aid dispenser has been suspended or revoked shall not be the proprietor of a business that engages in the practice of fitting or selling hearing aids nor shall that person be a partner, shareholder, member, or fiduciary in a partnership, corporation, association, or trust that maintains or operates that business, during the period of the suspension or revocation. This restriction shall not apply to stock ownership in a corporation that is listed on a stock exchange regulated by the Securities and Exchange Commission if the stock is acquired in a transaction conducted through that stock exchange.

SEC. 30. Section 3352 of the Business and Professions Code is amended to read:

3352. Each person desiring to obtain a license to engage in the practice of fitting or selling hearing aids shall make application to the board. The application shall be made upon a form and shall be made in the manner as is provided by the board and shall be accompanied by the fee provided for in Section 3456.

SEC. 31. Section 3353 of the Business and Professions Code is amended to read:

3353. (a) The board shall prepare, approve, grade, and conduct examinations of applicants for a hearing aid dispenser's license. The board may provide that the preparation and grading of the examination be conducted by a competent person or organization other than the board, provided, however, that the board shall establish the guidelines for the examination and shall approve the actual examination.

(b) Each applicant shall take and pass a written examination and a practical examination compiled at the direction of the board covering the critical tasks involved in the practice of fitting and selling hearing aids and the knowledge, skills, and abilities needed to perform those tasks safely and competently.

SEC. 32. Section 3354 of the Business and Professions Code is amended to read:

3354. The board shall issue a license to all applicants who have satisfied this chapter, who are at least 18 years of age, who possess a high school diploma or its equivalent, who have not committed acts or crimes constituting grounds for denial of licensure under Section 480, and who have paid the fees provided for in Section 3456. No license shall be issued to any person other than an individual.

SEC. 33. Section 3356 of the Business and Professions Code is amended to read:

3356. (a) An applicant who has fulfilled the requirements of Section 3352 and has made application therefor, may have a temporary license issued to him or her upon satisfactory proof to the board that the applicant holds a hearing aid dispenser's license in another state, that the licensee has not been subject to formal disciplinary action by another licensing authority, and that the applicant has been engaged in the fitting and sale of hearing aids for the two years immediately prior to application.

(b) A temporary license issued pursuant to this section shall be valid for one year from date of issuance and is not renewable. A

temporary license shall automatically terminate upon issuance of a license prior to expiration of the one-year period.

(c) The holder of a temporary license issued pursuant to this section who fails either license examination shall be subject to and shall comply with the supervision requirements of Section 3357 and any regulations adopted pursuant thereto.

SEC. 34. Section 3357 of the Business and Professions Code is amended to read:

3357. (a) An applicant who has fulfilled the requirements of Section 3352, and has made application therefor, and who proves to the satisfaction of the board that he or she will be supervised and trained by a hearing aid dispenser who is approved by the board may have a temporary license issued to him or her. The temporary license shall entitle the temporary licensee to fit or sell hearing aids as set forth in regulations of the board. The supervising dispenser shall be responsible for any acts or omissions committed by a temporary licensee under his or her supervision that may constitute a violation of this chapter.

(b) The board shall adopt regulations setting forth criteria for its refusal to approve a hearing aid dispenser to supervise a temporary licensee, including procedures to appeal that decision.

(c) A temporary license issued pursuant to this section is effective and valid for six months from date of issue. The board may renew the temporary license for an additional period of six months. The board shall not issue more than two renewals of a temporary license to any applicant, and if a temporary licensee who is entitled to renew a temporary license does not renew the temporary license and applies for a new temporary license at a later time, the new temporary license shall only be issued and renewed subject to the limitations set forth in this subdivision.

SEC. 34.5. Section 3357 of the Business and Professions Code is amended to read:

3357. (a) An applicant who has fulfilled the requirements of Section 3352, and has made application therefor, and who proves to the satisfaction of the board that he or she will be supervised and trained by a hearing aid dispenser who is approved by the board may have a temporary license issued to him or her. The temporary license shall entitle the temporary licensee to fit or sell hearing aids as set forth in regulations of the board. The supervising dispenser shall be responsible for any acts or omissions committed

by a temporary licensee under his or her supervision that may constitute a violation of this chapter.

(b) The board shall adopt regulations setting forth criteria for its refusal to approve a hearing aid dispenser to supervise a temporary licensee, including procedures to appeal that decision.

(c) A temporary license issued pursuant to this section is effective and valid for six months from date of issue. The board may renew the temporary license for an additional period of six months. Except as provided in subdivision (d), the board shall not issue more than two renewals of a temporary license to any applicant. Notwithstanding subdivision (d), if a temporary licensee who is entitled to renew a temporary license does not renew the temporary license and applies for a new temporary license at a later time, the new temporary license shall only be issued and renewed subject to the limitations set forth in this subdivision.

(d) A new temporary license may be issued pursuant to this section if a temporary license issued pursuant to subdivision (c) has lapsed for a minimum of three years from the expiration or cancellation date of the previous temporary license. The bureau may issue only one new temporary license under this subdivision.

SEC. 35. Section 3358 of the Business and Professions Code is amended to read:

3358. A temporary licensee under Section 3357 shall take the license examination within the first 10 months after the temporary license is issued. Failure to take the license examination within that time shall result in expiration of the temporary license, and it shall not be renewed unless the temporary licensee has first taken the licensure examination. The board, however, may in its discretion renew the temporary license if the licensee failed to take the necessary examination due to illness or other hardship.

SEC. 36. Section 3360 of the Business and Professions Code is amended to read:

3360. Practical examinations shall be held by the board at least twice a year. The time and place of any practical examination shall be fixed by the board at least 45 days prior to the date it is to be held.

SEC. 37. Section 3362 of the Business and Professions Code is amended to read:

3362. (a) Before engaging in the practice of fitting or selling hearing aids, each licensee shall notify the board in writing of the

address or addresses where he or she is to engage, or intends to engage, in the practice of fitting or selling hearing aids, and of any changes in his or her place of business.

(b) If a street address is not the address at which the licensee receives mail, the licensee shall also notify the board in writing of the mailing address for each location where the licensee is to engage, or intends to engage, in the practice of fitting or selling hearing aids, and of any change in the mailing address of his or her place or places of business.

SEC. 37.5. Section 3362 of the Business and Professions Code is amended to read:

3362. (a) Before engaging in the practice of fitting or selling hearing aids, each licensee shall notify the board in writing of the address or addresses where he or she is to engage, or intends to engage, in the practice of fitting or selling hearing aids, and of any changes in his or her place of business within 30 days of engaging in that practice.

(b) If a street address is not the address at which the licensee receives mail, the licensee shall also notify the board in writing of the mailing address for each location where the licensee is to engage, or intends to engage, in the practice of fitting or selling hearing aids, and of any change in the mailing address of his or her place or places of business.

SEC. 38. Section 3364 of the Business and Professions Code is amended to read:

3364. (a) Every licensee who engages in the practice of fitting or selling hearing aids shall have and maintain an established retail business address to engage in that fitting or selling, routinely open for service to customers or clients. The address of the licensee's place of business shall be registered with the bureau as provided in Section 3362.

(b) Except as provided in subdivision (c), if a licensee maintains more than one place of business within this state, he or she shall apply for and procure a duplicate license for each branch office maintained. The application shall state the name of the person and the location of the place or places of business for which the duplicate license is desired.

(c) A hearing aid dispenser may, without obtaining a duplicate license for a branch office, engage on a temporary basis in the practice of fitting or selling hearing aids at the primary or branch

location of another licensee's business or at a location or facility that he or she may use on a temporary basis, provided that the hearing aid dispenser notifies the board in advance in writing of the dates and addresses of those businesses, locations, or facilities at which he or she will engage in the practice of fitting or selling hearing aids.

SEC. 39. Section 3400 of the Business and Professions Code is amended to read:

3400. Proceedings to deny, suspend, or revoke a license under this chapter, shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all of the powers granted therein.

SEC. 40. Section 3401 of the Business and Professions Code is amended to read:

3401. The board may deny, issue subject to terms and conditions, suspend, or revoke a license, or impose conditions of probation upon a licensee, for any of the following causes:

(a) Gross incompetency, which includes, but is not limited to, the improper or unnecessary fitting of a hearing aid.

(b) Gross negligence.

(c) Repeated negligent acts.

(d) Conviction of any crime substantially related to the qualifications, functions, or duties of a hearing aid dispenser.

(e) Obtaining a license by fraud or deceit.

(f) Use of the term "doctor" or "physician" or "clinic" or "audiologist," or any derivation thereof, except as authorized by law.

(g) Fraud or misrepresentation in the fitting or selling of a hearing aid.

(h) The employment, to perform any act covered by this chapter, of any person whose license has been suspended, revoked, or who does not possess a valid license issued under this chapter.

(i) The use, or causing the use, of any advertising or promotional literature in a manner that has the capacity or tendency to mislead or deceive purchasers or prospective purchasers.

(j) Habitual intemperance in the use of alcohol or any controlled substance.

(k) Permitting another to use his or her license for any purpose.

(l) Violation of any provision of this chapter or of any regulation adopted pursuant to this chapter.

(m) Any cause that would be grounds for denial of an application for a license.

(n) Violation of Section 1689.6 or 1793.02 of the Civil Code.

SEC. 41. Section 3402 of the Business and Professions Code is amended to read:

3402. Upon denial of an application for license, the board shall notify the applicant in writing, stating (1) the reason for the denial and (2) that the applicant has a right to a hearing under Section 3400 if he or she makes written request therefor within 60 days after notice of denial. Service of the notice required by this section may be made by certified mail addressed to the applicant at the latest address filed by the applicant in writing with the board in his or her application or otherwise.

SEC. 42. Section 3403 of the Business and Professions Code is amended to read:

3403. A plea or verdict of guilty or a conviction following a plea of nolo contendere, made to a charge substantially related to the qualifications, functions, and duties of a hearing aid dispenser is deemed to be a conviction within the meaning of this article. The board may order the license suspended or revoked, impose probationary conditions on a licensee, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

SEC. 43. Section 3404 of the Business and Professions Code is amended to read:

3404. Before setting aside the revocation or suspension of any license or modifying the probation of any licensee, the board may require the petitioner to pass the regular examination given for applicants for licenses.

SEC. 44. Section 3421 of the Business and Professions Code is amended to read:

3421. It is unlawful to sell or barter, or offer to sell or barter, any license issued by the board.

SEC. 45. Section 3422 of the Business and Professions Code is amended to read:

3422. It is unlawful to purchase or procure by barter any license issued by the board with intent to use the same as evidence of the holder's qualification to practice the fitting or selling of hearing aids.

SEC. 46. Section 3423 of the Business and Professions Code is amended to read:

3423. It is unlawful to alter with fraudulent intent in any material regard a license issued by the board.

SEC. 47. Section 3424 of the Business and Professions Code is amended to read:

3424. It is unlawful to use or attempt to use any license issued by the board that has been purchased, fraudulently issued, counterfeited, or materially altered as a valid license.

SEC. 48. Section 3426 of the Business and Professions Code is amended to read:

3426. It is unlawful to willfully make any false statement in a material regard in an application for an examination before the board for a license.

SEC. 49. Section 3430 of the Business and Professions Code is amended to read:

3430. In addition to other proceedings provided for in this chapter, whenever any person has engaged, or is about to engage, in any acts or practices that constitute, or will constitute, an offense against this chapter, the superior court for the county wherein the acts or practices take place or are about to take place, may issue an injunction or other appropriate order, restraining such conduct on application of the board, the Attorney General, or the district attorney of the county. If the acts or practices constitute, or will constitute, an offense against Section 3306.5, the application to the superior court may be made by the State Board of Optometry. The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

SEC. 50. Section 3451 of the Business and Professions Code is amended to read:

3451. (a) A license issued under this chapter expires at midnight on its assigned renewal date.

(b) To renew an unexpired license, the licensee shall, on or before the date of expiration of the license, apply for renewal on a form provided by the board, accompanied by the prescribed renewal fee.

(c) Temporary license holders shall renew their licenses in accordance with Section 3357, and apply for that renewal on a form provided by the board, accompanied by the prescribed renewal fee for temporary licenses.

(d) Each duplicate license issued for a branch office shall expire on the same date as the permanent license of the hearing aid dispenser to whom the duplicate license was issued. These duplicate licenses shall be renewed according to subdivision (b).

SEC. 51. Section 3452 of the Business and Professions Code is amended to read:

3452. Except as otherwise provided in this chapter, an expired license may be renewed at any time within three years after its expiration on filing of an application for renewal on a form prescribed by the board, and payment of all accrued and unpaid renewal fees. If the license is renewed after its expiration the licensee, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this chapter. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license shall continue in effect through the date provided in Section 3451 which next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

SEC. 52. Section 3454 of the Business and Professions Code is amended to read:

3454. A license that is not renewed within three years after its expiration may not be renewed, restored, reissued, or reinstated thereafter, but the holder of the expired license may apply for and obtain a new license if all of the following apply:

(a) He or she has not committed acts or crimes constituting grounds for denial of licensure under Section 480.

(b) He or she pays all the fees that would be required of him or her if he or she were then applying for a license for the first time.

(c) He or she takes and passes the examination that would be required of him or her if he or she were then applying for a license for the first time, or otherwise establishes to the satisfaction of the

board that he or she is qualified to engage in the practice of fitting or selling hearing aids. The board may, by regulation, provide for the waiver or refund of all or any part of the application fee in those cases in which a license is issued without an examination under this section.

SEC. 53. Section 3455 of the Business and Professions Code is amended to read:

3455. (a) The Hearing Aid Dispensers Account is hereby created in the Speech-Language Pathology and Audiology Fund.

(b) All money in the Hearing Aid Dispensers Fund on January 1, 2010, shall be transferred on that date to the Hearing Aid Dispensers Account of the Speech-Language Pathology and Audiology Fund. All fees collected pursuant to this chapter shall be paid by the board into the Hearing Aid Dispensers Account of the Speech-Language Pathology and Audiology Fund. All money in that account and fund shall be used to carry out the purposes of this chapter and Chapter 5.3 (commencing with Section 2530), as provided in Section 2534.

SEC. 54. Section 3456 of the Business and Professions Code is amended to read:

3456. The amount of fees and penalties prescribed by this chapter shall be those set forth in this section unless a lower fee is fixed by the board:

(a) The fee for applicants applying for the first time for a license is seventy-five dollars (\$75), which shall not be refunded, except to applicants who are found to be ineligible to take an examination for a license. Those applicants are entitled to a refund of fifty dollars (\$50).

(b) The fees for taking or retaking the written and practical examinations shall be amounts fixed by the board, which shall be equal to the actual cost of preparing, grading, analyzing, and administering the examinations.

(c) The initial temporary license fee is one hundred dollars (\$100). The fee for renewal of a temporary license is one hundred dollars (\$100) for each renewal.

(d) The initial permanent license fee is two hundred eighty dollars (\$280). The fee for renewal of a permanent license is not more than two hundred eighty dollars (\$280) for each renewal.

(e) The initial branch office license fee is twenty-five dollars (\$25). The fee for renewal of a branch office license is twenty-five dollars (\$25) for each renewal.

(f) The delinquency fee is twenty-five dollars (\$25).

(g) The fee for issuance of a replacement license is twenty-five dollars (\$25).

(h) The continuing education course approval application fee is fifty dollars (\$50). The fee for a continuing education course transcript is ten dollars (\$10).

(i) The fee for official certification of licensure is fifteen dollars (\$15). The fee for a license confirmation letter is ten dollars (\$10).

SEC. 54.5. Section 3456 of the Business and Professions Code is amended to read:

3456. The amount of fees and penalties prescribed by this chapter shall be those set forth in this section unless a lower fee is fixed by the board:

(a) The fee for applicants applying for the first time for a license is seventy-five dollars (\$75), which shall not be refunded, except to applicants who are found to be ineligible to take an examination for a license. Those applicants are entitled to a refund of fifty dollars (\$50).

(b) The fees for taking or retaking the written and practical examinations shall be amounts fixed by the board, which shall be equal to the actual cost of preparing, grading, analyzing, and administering the examinations.

(c) The initial temporary license fee is one hundred dollars (\$100). The fee for renewal of a temporary license is one hundred dollars (\$100) for each renewal.

(d) The initial permanent license fee is two hundred eighty dollars (\$280). The fee for renewal of a permanent license is not more than two hundred eighty dollars (\$280) for each renewal.

(e) The initial branch office license fee is twenty-five dollars (\$25). The fee for renewal of a branch office license is twenty-five dollars (\$25) for each renewal.

(f) The delinquency fee is twenty-five dollars (\$25).

(g) The fee for issuance of a replacement license is twenty-five dollars (\$25).

(h) The continuing education course approval application fee is fifty dollars (\$50).

(i) The fee for official certification of licensure is fifteen dollars (\$15).

SEC. 55. (a) The Legislature finds and declares that the license fees for audiologists who sell hearing aids and the license fees for hearing aid dispensers will need to be adjusted to reflect the transfer of duties, powers, purposes, and responsibilities from the Hearing Aid Dispensers Bureau to the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board pursuant to this act, and to ensure that the fees paid to support the board in its regulation of licensed audiologists who sell hearing aids and hearing aid dispensers are fairly appropriated.

(b) The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board shall, no later than January 1, 2011, review the license fees paid by audiologists and hearing aid dispensers in order to assess whether that revenue is adequate to support the functions of the board that relate to the functions authorized by Chapter 5.3 (commencing with Section 2530) and Chapter 7.5 (commencing with Section 3300) of Division 2 of the Business and Professions Code.

SEC. 56. In transferring the duties, powers, purposes, responsibilities, and jurisdiction of the Hearing Aid Dispenser's Bureau to the Speech-Language Pathology and Audiology Board and Hearing Aid Dispensers Board, it is the intent of the Legislature that, to the extent possible, the appointed members of the board shall remain as members of the board subject to the terms specified under this act. It is the intent of the Legislature that the executive officer of the board shall remain as the executive officer of the board under the terms of this act.

SEC. 57. (a) Section 1.1 of this bill incorporates amendments to Section 101 of the Business and Professions Code proposed by both this bill and AB 48. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2010, (2) each bill amends Section 101 of the Business and Professions Code, (3) SB 819 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 48, in which case Sections 1, 1.2, and 1.3 of this bill shall not become operative.

(b) Section 1.2 of this bill incorporates amendments to Section 101 of the Business and Professions Code proposed by both this bill and SB 819. It shall only become operative if (1) both bills are

enacted and become effective on or before January 1, 2010, (2) each bill amends Section 101 of the Business and Professions Code, (3) AB 48 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 819, in which case Section 101 of the Business and Professions Code as amended by SB 819, shall remain operative only until the operative date of this bill, at which time Section 1.2 of this bill shall become operative, and Sections 1, 1.1, and 1.3 of this bill shall not become operative.

(c) Section 1.3 of this bill incorporates amendments to Section 101 of the Business and Professions Code proposed by this bill, AB 48, and SB 819. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2010, (2) all three bills amend Section 101 of the Business and Professions Code, and (3) this bill is enacted after AB 48, and SB 819, in which case Section 101 of the Business and Professions Code as amended by SB 819, shall remain operative only until the operative date of this bill, at which time Section 1.3 of this bill shall become operative and Sections 1, 1.1, and 1.2 of this bill shall not become operative.

SEC. 58. (a) Section 2.1 of this bill incorporates amendments to Section 149 of the Business and Professions Code proposed by both this bill and AB 48. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2010, (2) each bill amends Section 149 of the Business and Professions Code, (3) SB 819 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 48, in which case Sections 2, 2.2, and 2.3 of this bill shall not become operative.

(b) Section 2.2 of this bill incorporates amendments to Section 149 of the Business and Professions Code proposed by both this bill and SB 819. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2010, (2) each bill amends Section 149 of the Business and Professions Code, (3) AB 48 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 819, in which case Section 149 of the Business and Professions Code as amended by SB 819, shall remain operative only until the operative date of this bill, at which time Section 2.2 of this bill shall become operative, and Sections 2, 2.1, and 2.3 of this bill shall not become operative.

(c) Section 2.3 of this bill incorporates amendments to Section 149 of the Business and Professions Code proposed by this bill, AB 48, and SB 819. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2010, (2) all three bills amend Section 149 of the Business and Professions Code, and (3) this bill is enacted after AB 48, and SB 819 in which case Section 149 of the Business and Professions Code as amended by SB 819, shall remain operative only until the operative date of this bill, at which time Section 2.3 of this bill shall become operative and Sections 2, 2.1, and 2.2 of this bill shall not become operative.

SEC. 59. Section 4.5 of this bill incorporates amendments to Section 2530.2 of the Business and Professions Code proposed by both this bill and SB 821. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2010, (2) each bill amends Section 2530.2 of the Business and Professions Code, and (3) this bill is enacted after SB 821, in which case Section 4 of this bill shall not become operative.

SEC. 60. Section 34.5 of this bill incorporates amendments to Section 3357 of the Business and Professions Code proposed by both this bill and SB 821. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2010, (2) each bill amends Section 3357 of the Business and Professions Code, and (3) this bill is enacted after SB 821, in which case Section 34 of this bill shall not become operative.

SEC. 61. Section 37.5 of this bill incorporates amendments to Section 3362 of the Business and Professions Code proposed by both this bill and SB 821. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2010, (2) each bill amends Section 3362 of the Business and Professions Code, and (3) this bill is enacted after SB 821, in which case Section 37 of this bill shall not become operative.

SEC. 62. Section 54.5 of this bill incorporates amendments to Section 3456 of the Business and Professions Code proposed by both this bill and SB 821. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2010, (2) each bill amends Section 3456 of the Business and Professions Code, and (3) this bill is enacted after SB 821, in which case Section 54 of this bill shall not become operative.

SEC. 63. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2009

Governor